Single Bench

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION NO. 4434 OF 2004

PETITIONERS

Nova Iron and Steel Ltd.
Village Dagori, Tehsil Belha,
District Bilaspur
Chhattisgarh

Mr. R.K. Gambhir
Nova Iron and Steel Ltd.
Village Dagori, Tehsil Belha
District Bilaspur
Chhattisgarh

P.R. No. 4420/04
Presented by Shri B. Sameer Baker
dated 16-11-04

VERSUS

RESPONDENTS

Board for Industrial and Financial Reconstruction
Jawahar Vayapar Bhawan
1, Tolstoy Marg
New Delhi - 110001.

Chairman and MD
Industrial Finance Corporation of India
IFCI, Tower
61-Nehru Place
New Delhi

General Manager
Unit Trust of India (UTI)
13, Sir Vithaldas Thackersey Marg
Mumbai-400020

शपथ आयुक्त बिलासपुर तहसील कोर्ट

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 5433/04 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	21.12.2004 Shri Vivek Tankha, Senior Counsel with Shri H.K. Upadhyaya, Shri Rahul Sharma & Shri B.D. Guru, counsel for the petitioners. Shri R.S. Jaiswal, counsel for respondent No.2-Corporation. Learned Senior Counsel for the petitioners submits that in view of Section 25 of Sick Industrial Companies (Special Provisions) Act, 1985 (in short 'SICA') the petitioners were required to file an appeal before the Appellate Tribunal within 45 days from the date of the order. He further submits that after passing of the impugned order on 3.11.2003 no Appellate Authority was functioning for filing the appeal and the Parliament announced repeal of the Act on 1.1.2004, but that has not been notified so far. However, in the month of April, 2004 the Central Government appointed the Appellate Authority and Authority started functioning, but again the Authority stopped functioning in the month of June, 2004 and now again from the month of October, 2004 the Appellate Authority has started functioning. Therefore, the petitioners were not able to file the appeal within the prescribed period of limitation before the Appellate Authority. Therefore, in the above facts and circumstances, perforce this writ petition has been filed. On the other hand counsel for respondent No.2 submits that since the Appellate Authority started functioning in the month of April, 2000 and functioned upto June 2004, the petitioners ought to have preferred an appeal during that period.	

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Having heard learned counsel for the parties, having regard to the facts and circumstances of the case and having regard to the fact that from the date of passing of impugned order dated 3.11.2003 till the expiry of period of limitation no Appellate Authority was functioning, as such the petitioners have filed this petition and now the Appellate Authority has started functioning at New Delhi, the petitioners are directed to file an appeal along with stay application before the Appellate Authority within a period of two weeks from today and on filing such an appeal by the petitioners, the Appellate Authority shall consider the appeal on its own merits as well as on stay and decide the same in accordance with law. Since the delay has occurred on account of non-functioning of the Appellate Authority at the time of passing of the impugned order that should not be considered as an impediment in filing and hearing of the appeal. With the aforesaid direction, the petition stands disposed of. Consequently, M.W.P. No.4779/04 & 8937/04 also stand disposed of. Certified copy as per rules. Sd/- L.C.BHADOO Judge	

Roshan/-